

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/783,864

Applicant(s)

UEBERSCHAR ET AL.

Examiner

Katherine A. Bareford

Art Unit

1792

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 August 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because:
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 24-33, 35 and 38-44.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Katherine A. Bareford/
Primary Examiner, Art Unit 1792

Continuation of 3. NOTE: (1) the proposed amendment to claim 24, last two lines, "enhancing the wetting of the curtain medium from the second curtain to the medium from the first first curtain by providing a negative pressure in the space" raises new issues that would require further consideration and/or search by the Examiner, as this requirement has not previously been made. Furthermore, (2) the proposed new claim 46, last two lines, "stabilizing said first curtain and said second curtain by applying a positive pressure in said space" raises new issues that would require further consideration and/or search by the Examiner, as this requirement as not previously been made..

Continuation of 11, does NOT place the application in condition for allowance because: (1) As to the 35 USC 112 rejections, the proposed amendment to claim 24 as to the description of the enclosing step does not overcome the rejection because as discussed in Box 3 above, the proposed amendment has not been entered. As to the arguments as to the rejection of claims 43 and 44 as to the confusion as to how the web can be paper or cardboard, the Examiner notes the argument that cardboard is a form of paper that therefore can be a particular version of paper. However, the confusion is not that cardboard cannot be considered a subset of paper, but that as worded, the claim indicates that "paper" and "cardboard" are different, as the claim indicates that the "paper web" can be "one of paper and cardboard" and it seems that a paper web would already be "paper". (2) As to the 35 USC 103 rejection of the claims, applicant argues that neither reference teaches "enclosing" the space as claimed. The Examiner notes that neither reference specifically provides the enclosing as claimed. Rather it is the combination of the references that provides the suggested single pressure differential system that has the same bounding elements (curtain mediums, applicator units, paper web, and suction/blower box) as discussed in paragraph 9 of the Final Rejection of June 4, 2008, and that position is maintained. As to positive and negative pressures, Finnium notes that the purpose of the pressure differential system is to provide a vacuum (negative pressure to atmospheric) or positive pressure in the space partially bounded by the curtain..